

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JAN 24 AM 9:57

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier PENAGOS-Estrada,

Defendant

Magistrate Docket No. 08 MJ 0209

COMPLAINT FOR VIOLATION OF:

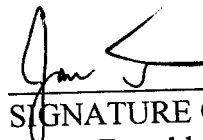
DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **January 23, 2008** within the Southern District of California, defendant, **Javier PENAGOS-Estrada**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **24th** DAY OF **JANUARY**
2008



Jan M. Adler

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Javier PENAGOS-Estrada****PROBABLE CAUSE STATEMENT**

On January 23, 2008 at approximately 9:45 AM, Smuggling Interdiction Group, Criminal Alien Squad Agents' N. Gonzalez and J. Hays were conducting area surveillance in the vicinity of 30th Street and Franklin Avenue in San Diego, California.

SIG Agents were attempting to locate a previously deported criminal alien who had returned to the United States after being deported, when they encountered the defendant **Javier PENAGOS-Estrada** in the area.

SIG Agents identified themselves to the defendant as United States Border Patrol Agents and questioned him as to his identity and immigration status. The defendant attempted to abscond and after a brief foot chase, the defendant was apprehended by Border Patrol Agents Gonzalez and Hays. The defendant turned around and lowered his shoulder and attempted to knock Agent Gonzalez over. The defendant stated that he was born in Mexico and that he was a citizen of Mexico. The defendant admitted that he was present in the United States without having valid immigration documents and that this was the reason that he attempted to avoid apprehension. The defendant was subsequently arrested and transported to the Chula Vista Border Patrol station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on September 19, 2006 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico, and that he is present without immigration documents that would allow him to enter or remain in the United States legally.